

Response dated 02/14/2006  
Response to Office Action dated 11/16/2005

Application No. 09/864,383

### **REMARKS**

Claims 1-2, 7, 10, 16-19, 77, 79, 93-94, 96, 101, 104, 110-112, 153, 155, 157, 162, 165, 171-173, 214-215, and 218-219 are pending with this paper. Applicant is canceling claims 3-6, 8-9, 11-15, 20-76, 78, 80-92, 95, 97-98, 100, 102-103, 105-109, 113-152, 154, 156, 158-161, 163-164, 166-170, 174-213, 216-217, and 220 without prejudice. Applicant previously cancelled claim 99. Claims 1-98 and 10-220 are rejected by the Office Action.

#### **Claim Rejections – 35 U.S.C. §103**

Claims 1-3, 5, 7-22, 24, 26-41, 43, 45-60, 62, 64-76, 93-97, 101-117, 119, 121-137, 139, 141-158, 160, 162-178, 180, 182-198, 200, 202-218, and 220 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. 5,765,138 (Aycock) in view of U.S. 5,657,460 (Egan).

Regarding claim 1, Applicant is amending claim 1 to include the feature of “producing, by the processor, an evaluation score for said at least one supplier based on said inputted data and the hierarchical identification by combining a plurality of performance measurement components, each performance measurement component corresponding to a different measured time.” (Emphasis added.) The amendment is supported by the specification as originally filed. For example, the specification discloses (Paragraph 61):

Each supplier is identified by supplier field 281, division field 282, and department 283. The KPI column 284 corresponds to the five defined teams view measures, for both their pre-season and in-season performance set forth in Fig. 8. In the illustrated embodiment these measures are: deliverables, quality, documentation, culture, and communication. The subtotals are for pre-season and in-season performance, respectively, and the season total field displays the total score for the supplier, as was the case in Figure 8. The date the score was created is also indicated.

The combination of Aycock and Egan does not even suggest the above-mentioned feature. Aycock, as shown in fig. 1, discloses the evaluation of supplier capabilities to qualify as a vendor (col. 4, lines 65-67). However, Aycock merely determines the supplier capabilities at a particular point of time and does not even suggest measuring the performance of a supplier based on different times by combining the time-dependent performance measures. For example, performance may vary with time for a first supplier if the first supplier has limited supply capabilities. The first supplier may perform very well when the demand is small (e.g., pre-

Response dated 02/14/2006  
Response to Office Action dated 11/16/2005

Application No. 09/864,383

season) and may perform very poorly if the demand is large (e.g., in-season). On the other hand, a second supplier, who may not perform as well as the first supplier when demand small, may be preferable when measured over different times. Moreover, Egan does not make up for the deficiencies of Aycock.

Applicant is similarly amending independent claim 93 to include the feature of "generating, by the processor for at least one selected hierarchical level, at least one performance indicator for said supply chain by combining a plurality of performance measurement components, each performance measurement component corresponding to a different measured time, said at least one performance indicator relating to the at least one supplier with respect to at least one other supplier." Applicant is also amending independent claim 153 to include the feature of "evaluating, for at least one selected hierarchical level, the suppliers for said supply chain based on the performance information by combining a plurality of performance measurement components, each performance measurement component corresponding to a different measured time."

Claims 2, 7, 10, 16, 17, 18, 19, 94, 96, 101, 104, 110, 111, 112, 155, 157, 162, 165, 171, 172, 173, 214, 215, and 218 ultimately depend from the above-mentioned independent claims and are thus patentable for at least the above reasons. Applicant requests reconsideration of claims 1, 2, 7, 10, 16, 17, 18, 19, 93, 94, 96, 101, 104, 110, 111, 112, 153, 155, 157, 162, 165, 171, 172, 173, 214, 215, and 218.

**Claims 77-92 are rejected under U.S.C. §103(a) as being unpatentable over Aycock and Egan in view of reference "An Exploratory Study of the Perceived Benefits of Electronic Bulletin Use and Their Impact on Other Communication Activities" (James).**

Claims 77 and 79 ultimately depend from claims independent claim 1. Moreover, James does not make up for the deficiencies of Aycock and Egan. As previously discussed, Applicant is canceling claims 78 and 80-92 without prejudice. Applicant requests reconsideration of claims 77 and 79.

**Claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199, and 201 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Aycock and Egan in view of the official note that it is well known in the art of supply**

Response dated 02/14/2006  
Response to Office Action dated 11/16/2005

Application No. 09/864,383

**chain management that the evaluation of a supplier would take into account pre-season and in-season performance.**

As previously discussed, Applicant is canceling claims 4, 6, 23, 25, 42, 44, 61, 63, 98, 100, 118, 120, 138, 140, 159, 161, 179, 181, 199, and 201 without prejudice.

**Claim 219 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Aycock and Egan in view of the official note that it is well known in the art of data manipulation to collect data, evaluate it, and then to plot the results to determine any trends.**

Claim 219 depends from independent claim 1. Moreover, the Official notice that "it is well known in the art of data manipulation to collect data, evaluate it, and then to plot the results to determine any trends" does not make up for the deficiency of Aycock and Egan. Thus, claim 219 is patentable for at least the above reasons. Applicant requests reconsideration.

All objections and rejections have been addressed. Hence, it is respectfully submitted that the present application is in condition for allowance, and a notice to that effect is earnestly solicited.

Respectfully submitted,

Date: February 14, 2006

By: Kenneth F. Smolik  
Kenneth F. Smolik  
Registration No. 44,344  
BANNER & WITCOFF, LTD.  
10 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606  
Direct Line: 312-463-5419  
Facsimile: 312-463-5001